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SUBJECT: CODEL BALLENGER RAISES SUMATE CASE

Classified By: Abelardo A. Arias, Political Counselor,
for Reason 1.4(b).

Summary

1. (C) Congressman Cass Ballenger and three House staffers visited Caracas October 28-29 with the principal objective of raising the case of the four representatives of the NGO Sumate, who have been charged with treason for supporting the recall referendum against President Hugo Chavez. To this end, Ballenger met with three of the indicted Sumate representatives, Supreme Court President Ivan Rincon, chief prosecutor Danilo Anderson, and five foreign ambassadors. Ballenger offered to help Sumate with a House Resolution in support of their case and to elicit support from various colleagues on the Hill. Though the requested meeting with Chavez did not occur, the visit was well timed in that the Sumate representatives face possible incarceration as early as November 2. End summary.

Machado Expects Imprisonment

2. (C) Congressman Cass Ballenger visited Caracas October 28-29 accompanied by House staffers Ted Brennan, Caleb McCarry, and Mark Wheat. The Ambassador hosted breakfast for CODEL Ballenger and representatives of the NGO Sumate on October 29. Present were Maria Corina Machado, Alejandro Plaz, Luis Enrique Palacios, and Roberto Abdul, the first three of which have been charged with treason for having accepted a grant from the National Endowment for Democracy (NED).

3. (C) The Ambassador summarized international efforts in support of Sumate, including a letter signed by 31 prominent international figures, a letter in support of the NED by Congressmen Gregory Meeks and Christopher Cox, a visit on November 7 by NED President Carl Gershman and NED Board Member Terence Todman, statements by the Department spokesman, demarches to and by EU members, and a letter and possible call to Chavez by former President Jimmy Carter. The Ambassador also took note of public comments against President Hugo Chavez by National Security Advisor Rice and presidential candidate John Kerry. Regarding press, the Ambassador noted that the Wall Street Journal and Miami Herald had run stories favorable to Sumate and that the Washington Post might do so as well.

4. (C) The Ambassador briefed the Sumate representatives on the Department's efforts to drum up support from European governments, noting that the United Kingdom and France had voiced concern to the GOV. Plaz added that he had heard that Brazilian Foreign Minister Celso Amorim had called Venezuelan Foreign Minister Jesus Perez on the case. Plaz acknowledged the help locally of the Dutch and German ambassadors. Plaz also mentioned that UN Secretary General Kofi Annan had agreed to express support via a planted question at his next weekly press conference.

5. (C) Machado said Sumate used the NED funds strictly for 24 workshops to educate citizens on voting rights. She said the prosecutor working on the Sumate case had recommended to the judge that the four Sumate representatives (including Ricardo Estevez, who was not present) be jailed pending trial. Machado said the 18-year sentence associated with the charges made incarceration almost automatic. Machado believes there is a strong likelihood that she and Plaz will be jailed November 2. Plaz suggested this could be delayed a week by legal maneuvering. Machado said she was unsure of the GOV's intentions, calling the court case "a poker game." She admitted it had been difficult to present her case to some foreign ambassadors who dismissed the rebellion charges as a GOV scare tactic. She expressed concern that their imprisonment would strike fear into their volunteer network and intimidate NGOs. Plaz predicted Chavez would step up persecution of his enemies after the October 31 elections.

6. (C) Ballenger told the Sumate representatives he regretted

that Chavez had not granted him an audience to raise Sumate. Ballenger offered to sponsor a House Resolution in support of Sumate once the U.S. Congress comes back to session on November 15. Ballenger suggested that no other member, who he said is closer philosophically to Chavez than he, might be convinced to contact Chavez personally. The Ambassador noted that a House Resolution might come after the Sumate representatives are locked up, but would nonetheless have a significant impact. Machado said she did not know how the GOV might react to a resolution, but agreed it would be "huge moral support" for their case. Ballenger also noted he had sought support for Sumate's case with the local ambassadors of Argentina, Canada, France, Mexico, and UK at a lunch hosted by the Ambassador on October 28.

Anderson Stands Firm

17. (C) Congressman Ballenger and the Ambassador later met with prosecutor Danilo Anderson. Congressman Ballenger defended the role of the NED around the world, and the grant to Sumate in particular. He asked Anderson if he had any suggestions on how the USG could help resolve the questions the Attorney General's office had about the NED. Anderson told Ballenger that the prosecutor's office is investigating the NED loans to Venezuelan NGOs because some of the groups that received the money had allegedly engaged in crimes, including civil rebellion, electoral crimes, and fraud. He said the prosecutor in the case would probably decide whether to charge the members of Sumate or close the case on November 12.

The Ambassador asked if it would be helpful to have NED President Gershman come to Venezuela and explain the NED's procedures and the projects in question to the prosecutor's office. Anderson said it was a good idea, and agreed to express his interest in meeting to the MFA, which would coordinate the NED's schedule.

Rincon Dismisses NED Connection

18. (C) Ballenger and the Ambassador also met with Supreme Court Chief Justice Ivan Rincon. Ballenger told Rincon that many members of the U.S. Congress were upset about the Sumate/NED case. Ballenger opined that neither NED nor Sumate had engaged in illegal or illegitimate activity. He pointed out that the Congress contributes funds to many international organizations, including the World Bank. He said the criminalization of NED funding in Venezuela has led many in Congress to suggest either that the Congress should not give money to these international organizations, or that the Congress should get more involved in deciding what loans are approved. Ballenger stressed this message to Rincon, expressing the anger in the Congress, and the possible effect it could have on World Bank funding Rincon is seeking for the Venezuelan judiciary.

19. (C) Rincon said it is not illegal to receive international financial aid, adding that the Supreme Court itself does so. He said the size of the NED loan made it insignificant, and that even if the funds were put to some use other than the one intended, the NED is not culpable under Venezuelan law. The fact that most of the evidence was obtained through FOIA made it clear it was not a covert program. Rincon added, however, that Sumate may have participated in illegal acts. He made a point of Sumate's role as the organizational and technical nerve center of a fractured opposition. He said the prosecutor's investigation centered on possible crimes committed by Sumate in the signature drive leading up to the recall referendum, and for allegedly setting up a parallel Electoral Council.

10. (C) Ballenger asked for clarification on whether the charges against Sumate stemmed from alleged illegal financing, or if the political organizing they had engaged in was illegal. Rincon said the investigation had not determined yet that any crime had been committed, but if so it had nothing to do with the NED. He said Attorney General Isaias Rodriguez told him that the investigation of Sumate

had to be disconnected from the NED, as international financing was not illegal. Rincon stressed the role of the USG in helping reform the Judicial Branch in Venezuela through bilateral and multilateral projects, and said he hoped it would continue. Ballenger asked Rincon about amendments to the Penal Code being discussed in the National Assembly which would criminalize receipt of international funds by NGOs. Rincon said he had nothing to do with the proposal, and thought it was probably unconstitutional. He promised if such a law were passed, the Supreme Court would act.

Comment

18. (C) Ballenger's visit was useful in signaling to the GOV our interest in the Sumate's highly politicized case, and tying that interest directly to the U.S. Congress. President Chavez is seeking to neutralize Sumate's capacity to challenge him on electoral transparency. He also wants to send a message to the Venezuelan NGO community that activities contrary to GOV interests will not be tolerated. Up to now, it has served Chavez's interest merely to threaten Machado and company with jail time. He may be ready, however, to turn up the political heat on the opposition, similar to when Baruta Mayor Enrique Capriles was detained earlier this year.

19. (U) Congressman Ballenger did not review this message before transmittal.

Brownfield

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